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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* KENJI IWANO, JINSEI MIYAZAKI, SHIROU HONMA,
HIROYOSHI NOMURA, and SHUNICHI NAGAMOTO

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Appeal 2010-006088
Application 10/067,843
Technology Center 3600

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Before ANTON W. FETTING, JOSEPH A. FISCHETTI, and
BIBHU R. MOHANTY, *Administrative Patent Judges.*

FETTING, *Administrative Patent Judge.*

DECISION ON APPEAL

## STATEMENT OF THE CASE[1]

Kenji Iwano, Jinsei Miyazaki, Shirou Honma, Hiroyoshi Nomura, and Shunichi Nagamoto (Appellants) seek review under 35 U.S.C. § 134 (2002) of a final rejection of claims 1 and 3-17, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellants invented a medical information system adapted to home health care (Specification ¶ 0001).

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

> 1. A medical information system comprising:
>
> [1] a patient server comprising a first database, said patient server
>
> receiving vital information and unique identifications allocated to patients,
>
> storing and managing the received vital information and unique identifications in said first database
>
> such that the vital information is associated with a corresponding unique identification, and
>
> such that correspondence between each of the unique identifications and patient data,

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[1] Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed August 10, 2009) and Reply Brief ("Reply Br.," filed January 11, 2010), and the Examiner's Answer ("Ans.," mailed November 10, 2009).

wherein the patient data includes at least a patient name,

is unrecognizable, and

transmitting the stored and managed vital information and unique identifications;

[2] a medical care provider server connected to said patient server through a first network and comprising a second database, said medical care provider server

receiving the vital information and unique identifications from said first database of said patient server through the first network,

storing and managing the received vital information, unique identifications, and patient data in said second database,

associate [sic] each of the unique identifications with corresponding patient data,

identifying corresponding patient data using each of the unique identifications, and

allowing the stored and managed vital information, unique identifications, and patient data to be browsed;

[3] a patient terminal connected to said patient server through a second network, said patient terminal

transmitting the vital information and unique identifications to said patient server through the second network;

[4] and a doctor terminal connected to said medical care provider server through a third network, said doctor terminal

browsing the vital information, unique identifications, and patient data stored and managed in said medical care provider server through the third network,

wherein the first network is configured

to allow communication between said patient server and said medical care provider server and

disallow communication between

either said patient terminal or said doctor terminal and

either said patient server or said medical care provider server, and

disallow communication between said patient terminal and said doctor terminal,

wherein the second network is configured to

allow communication between said patient terminal and said patient server, and

disallow communication among said patient server, said medical care provider server, and said doctor terminal, and

wherein the third network is configured to

allow communication between said doctor terminal and said medical care provider server, and

disallow communication among said patient server, said medical care provider server, and said patient terminal.

The Examiner relies upon the following prior art:

| | | |
|---|---|---|
| Joao | US 6,283,761 | Sep. 4, 2001 |
| Felsher | US 2002/0010679 A1 | Jan. 24, 2002 |
| Califano | US 2003/0039362 A1 | Feb. 27, 2003 |

Claims 1 and 3-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Joao, Califano, and Felsher.

## ISSUES

The issue of obviousness turns primarily on whether the Examiner presented evidence of the predictability of allowing and disallowing data communication according to limitation [4] of claim 1.

## FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

*Facts Related to the Prior Art*

*Joao*

01. Joao is directed to a comprehensive healthcare processing system which can manage patient and client records, doctor and other provider records, healthcare insurance and/or payer records, and thereby provide an apparatus, system and methods for providing a variety and a multitude of healthcare information processing applications, processes and services. Joao 2:38-45.

02. Joao does not show two separate servers communicating with one another.

*Califano*

03. Califano is directed to securely storing genetic and medical data, as well as other types of private information. A secure database protects confidential medical information of participants in a medical study. When study participants register with the study, upon registration they are assigned a virtual private identity (VPI) that lacks any information that may be employed, in and of

itself, to determine identity information, such as name or social security number of the participant assigned the respective VPI. The system creates an encrypted and secure database that contains the pairing between patient identity information and the assigned VPI. For subsequent operations of storing or accessing patient data, the system employs the VPI, thus, decoupling patient identity information from operations for reading and storing data. Once the patient has an assigned VPI, information collected from the patient may be stored into data tables of a database using the VPI as an index. Califano ¶ 0010.

*Felsher*

04. Felsher is directed to a trustee model for the collection, maintenance and distribution of entrusted information content, such as medical records or copyright works. Medical institutions are the custodians of the records, over which the patient, or the successors of the patient hold rights. One of the patient's rights is the right to control release of the records. Felsher provides a comprehensive set of technologies to address the full scope of issues presented in implementing a secure and versatile medical information infrastructure that respects the rights of patients to privileges, such as confidentiality, gives due regard to federal and state regulations, while facilitating full and appropriate use and transmission of the data. Felsher ¶'s 0189-0190.

## ANALYSIS

We are persuaded by the Appellants' argument that the applied art fails to describes or show the predictability of a structure in which two servers communicate with one another, one of which has a database that associates patient information with an anonymous identifier and patient vital information, the other of which only stores an association between the anonymous identifier and the vital information, and where the first server does not communicate with a patient terminal and the second server does not communicate with a patient terminal. Appeal Br. 7-8; Reply Br. 5-6.

The Examiner found that the use of plural networks and security were notoriously well known and applied this fact to Joao to find that the claimed combination of three separate networks and the allowance and disallowance of specified data were predictable. Ans. 6-7 and 18-19. While we would agree that the use of networks in serial communication is well known, and securing data communications is well known, the Examiner provided no evidence that the particular combination of data allowance and disallowance by each of the networks was predictable to one of ordinary skill.

The remaining independent claims have a similar limitation.

## CONCLUSIONS OF LAW

The rejection of claims 1 and 3-17 under 35 U.S.C. § 103(a) as unpatentable over Joao, Califano, and Felsher is improper.

## DECISION

The rejection of claims 1 and 3-17 under 35 U.S.C. § 103(a) as unpatentable over Joao, Califano, and Felsher is not sustained.

REVERSED

JRG